

ALABAMA SENTENCING COMMISSION

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Statute creating the Alabama Sentencing Commission

TITLE 12. COURTS CHAPTER 25. ALABAMA SENTENCING COMMISSION.

Act 2000-596, 2000 Regular Session, which created the Alabama Sentencing Commission, became effective May 17, 2000.

§ 12-25-1. Created.

There is created within the judicial branch as an agency of the Supreme Court the Alabama Sentencing Commission, hereinafter called the "commission."

§ 12-25-2. Purpose.

(a) The purposes of the commission shall be to review existing sentence structure, including laws, policies, and practices, and to determine and recommend to the Legislature and Supreme Court changes regarding the criminal code, criminal procedures, and other aspects of sentencing policies and practices appropriate for the state which:

- (1) Secure the public safety of the state by providing a swift and sure response to the commission of crime.
- (2) Establish an effective, fair, and efficient sentencing system for Alabama adult and juvenile criminal offenders which provides certainty in sentencing, maintains judicial discretion and sufficient flexibility to permit individualized sentencing as warranted by mitigating or aggravating factors, and avoids unwarranted sentencing disparities among defendants with like criminal records who have been found guilty of similar criminal conduct. where there is disparity, it should be rational and not related, for example, to geography, race, or judicial assignment.
- (3) Promote truth in sentencing, in order that a party involved in a criminal case and the criminal justice process is aware of the nature and length of the sentence and its basis.
- (4) Prevent prison overcrowding and the premature release of prisoners.
- (5) Provide judges with flexibility in sentencing options and meaningful discretion in the imposition of sentences.
- (6) Enhance the availability and use of a wider array of sentencing options in appropriate cases.
- (7) Limit the discretion of district attorneys in determining the charge or crime.

(b) In fulfilling its purposes, the commission shall be mindful of the purposes of sentencing that include, but are not limited to, all of the following:

- (1) Protecting the public.
- (2) Promoting respect for the law.
- (3) Providing just and adequate punishment for the offense.
- (4) Deterring criminal conduct.
- (5) Imposing sanctions which are least restrictive while consistent with the protection of the public and the gravity of the crime.
- (6) Promoting the rehabilitation of offenders.

§ 12-25-3. Membership.

(a) The commission shall consist of the following voting members:

- (1) The Chief Justice of the Supreme Court, or at his or her designation, a sitting or retired judge, who shall serve as chair, or at his or her designation another member of the commission shall serve as chair.
- (2) The Governor, or his or her designee.
- (3) The Attorney General, or his or her designee.

- (4) A district attorney appointed by the President of the Alabama District Attorneys' Association.
- (5) Two circuit judges, active or retired, appointed by the President of the Alabama Association of Circuit Court Judges.
- (6) A district judge, active or retired, appointed by the President of the Alabama Association of District Court Judges.
- (7) A victim of a violent felony or a person whose immediate family member was a victim of a violent felony, appointed by the Governor.
- (8) The Chair of the House Judiciary Committee, or his or her designee who is a member of the House Judiciary Committee.
- (9) The Chair of the Senate Judiciary Committee, or his or her designee who is a member of the Senate Judiciary Committee.
- (10) A private attorney specializing in criminal defense appointed by the President of the Alabama Criminal Defense Lawyers' Association.
- (11) A private attorney specializing in criminal law appointed by the President of the Alabama Lawyer's Association.
- (12) A county commissioner appointed by the Governor.
- (13) The Commissioner of the Department of Corrections, or his or her designee.
- (14) The chair of the Alabama Board of Pardons and Parole, or his or her designee.
- (15) A member of the academic community with a background in criminal justice or corrections policy appointed by the Chief Justice.

- (b) (1) Appointed members of the commission shall serve terms of four years and may be reappointed for a second term. Members of the commission who serve because of their public office or position shall serve only as long as they hold such office or position.
- (2) A member appointed to fill a vacancy on the commission which occurs before the expiration of the term for which his or her predecessor was appointed shall serve only for the remainder of such term.
- (3) The membership of the commission shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of this state.

§ 12-25-4. Advisory council.

- (a) An advisory council to the commission shall be established to advise and consult the commission on sentencing matters. The advisory council shall be composed of representatives from the various state and non-state agencies and organizations having an interest in or whose operations directly or indirectly impact upon the criminal justice system. Membership of the advisory council shall include:
 - (1) The Director of Public Safety, or his or her designee.
 - (2) The Director of the Department of Youth Services, or his or her designee.
 - (3) A sheriff appointed by the Alabama Sheriffs' Association.
 - (4) A police chief appointed by the Alabama Association of Chiefs of Police.
 - (5) A director of a community corrections program appointed by the Chief Justice.
 - (6) A representative of a prison ministry organization, who is not employed by the state, appointed by the Commissioner of the Department of Corrections.
 - (7) A rehabilitated former prison inmate appointed by the Commissioner of the Department of Corrections.
 - (8) Additional advisory members appointed in the numbers and manner as the commission deems advisable.
- (b) (1) Appointed members of the advisory council shall serve terms of four years and may be reappointed. Members of the advisory council who serve because of their public office or position shall serve only as long as they hold the office or position.
- (2) A member appointed to fill a vacancy on the advisory council that occurs before the expiration of the term of his or her predecessor shall serve only for the remainder of the term.

§ 12-25-5. Compensation and expenses.

- (a) Members of the commission and advisory council shall serve without compensation.

(b) Members of the commission and advisory council are entitled to reimbursement for expenses while on official business of the commission or attending its meetings. Expenses shall be paid as follows:

(1) The expenses of members who are legislators may be paid out of any funds appropriated to the Legislature or out of any funds appropriated for joint interim committees of the Legislature, but in the amounts as if they were performing legislative duties.

(2) The expenses of the members representing state or local government departments or agencies may be paid out of any funds available for travel in their respective departments or agencies.

(3) The expenses of the other members may be paid out of funds available to the commission for travel and shall be reimbursed in accordance with Sections 36-7-20 to 36-7-22, inclusive.

§ 12-25-6. Meetings.

(a) The commission shall meet quarterly at the State Capitol or at other places as is deemed necessary or convenient and at other times upon call of the chair. All meetings shall be open to the public. The advisory council shall convene at the discretion of the commission, but in any event shall meet jointly with the commission at least once annually.

(b) A majority of the members of the commission shall constitute a quorum for conducting business.

(c) Except as hereinafter provided, the commission shall act by affirmative vote of a majority of members present and voting.

(d) The commission will keep or cause to be kept a record of all transactions discussed or voted on by the commission.

§ 12-25-7. Executive committee.

The executive committee of the commission shall be composed of the chair and four other members selected by the commission and shall conduct business as authorized by the commission or as permitted in Section 12-25-12.

§ 12-25-8. Powers.

The commission shall have the power to perform the functions as necessary to carry out the purposes of this chapter and may delegate power to any member or designated person. The commission may do all of the following:

(1) Submit appropriation requests to the Legislature.

(2) Serve as an agency to apply for and receive grants, donations, or other monies from public or private sources and to coordinate and conduct studies in connection with any of its purposes and functions.

(3) Enter into and perform contracts, leases, cooperative agreements, and other transactions as may be necessary to fulfill the responsibilities of the commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization.

(4) Accept voluntary and uncompensated services.

(5) Request information, data, and reports from any Alabama agency or judicial officer as the commission may from time to time require and as may be produced consistent with other law.

(6) Hold hearings, conduct fact-finding tours, and call witnesses to assist the commission in fulfilling its responsibilities.

(7) Perform other functions as may be necessary to carry out this chapter.

§ 12-25-9. Duties.

The commission shall have the following responsibilities:

(1) To review state sentencing structure, including laws, policies, and practices, and recommend changes to the criminal code, criminal rules of procedure, and other aspects of sentencing necessary to accomplish the purposes and objectives of this chapter.

(2) To review the overcrowding problem in county jails, with particular emphasis on funding for the county jails and the proper removal of state prisoners from county jails pursuant to state law and state and federal court orders, and to make recommendations for resolution of these issues to the Governor, Legislature,

Attorney General, and Judicial System Study Commission before the 2002 Regular Legislative Session.

(3) To make recommendations to the Governor, Legislature, Attorney General, and Judicial System Study Commission concerning the enactment of laws relating to criminal offenses, sentencing, and correctional or probation matters.

(4) To publish an annual report and other reports as the chair deems necessary.

(5) To serve as a clearinghouse for the collection, preparation, and dissemination of information on sentencing practices.

(6) To maintain and make available for public inspection records of actions taken by the commission.

§ 12-25-10. Comprehensive discretionary sentencing plan.

Before the 2002 Regular Legislative Session, the commission shall review the present sentencing structure, including laws, policies, and practices, and recommend for consideration in the 2002 Regular Session changes to the criminal code, criminal rules of procedure, and other aspects of sentencing necessary to accomplish a comprehensive discretionary sentencing plan for all felony offenses consistent with the purposes and objectives of this chapter.

§ 12-25-11. Cooperation with commission.

Agencies of the state government shall cooperate with the commission as necessary for the commission to carry out its responsibilities. Upon the request of the commission, each agency and department of the state shall make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the commission in the execution of its functions without cost to the commission. When possible, information shall be provided electronically.

§ 12-25-12. Director; employees.

(a) The Chief Justice shall appoint a director for the commission. The Chief Justice may also authorize other employee positions for the commission. The director and employees of the commission shall be paid from any funds appropriated to the commission and shall be employed in the same manner as employees of the Supreme Court.

(b) The executive committee of the commission may employ and fix the compensation of consultants and experts to assist the commission as may be necessary to carry out its responsibilities.

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